



Threshold Criteria for Unacceptable Professional Conduct

Approved by Council on 4 February 2015

Purpose of this document

1. The purpose of this document is to provide guidance to complainants and registrants, and to the Screeners and Investigating Committee of the General Osteopathic Council (GOsC), about the sorts of matters that will be considered under the GOsC's fitness to practise procedures.
2. In line with its overarching objective,¹ the fitness to practise procedures of the GOsC are designed to protect the public. They are not intended to serve as a general complaints resolution process, nor are they designed to resolve civil disputes between registrants and patients.
3. Investigating allegations properly is a resource-intensive process. The public interest requires that such resources should be used effectively to protect the public and should not be diverted towards investigating matters that do not raise cause for concern.
4. The GOsC considers that this approach is a proportionate response to the volume of complaints it receives, and is consistent with the principle of 'right touch regulation' promoted by the [Professional Standards Authority](#).
5. The GOsC has, in consultation with its stakeholders including public and patient representatives, produced these 'threshold criteria'.
6. These criteria will guide the Screeners when determining whether power is given by the 1993 Act to deal with a complaint if it proves to be well founded,² and will guide the Investigating Committee when determining whether or not there is a 'case to answer'.³

The threshold criteria

7. The Osteopaths Act 1993 provides that 'Unacceptable Professional Conduct' is 'conduct which falls short of the standard required of a registered osteopath'.⁴
8. It also provides that a failure to comply with any provision of the Code of Practice should be taken into account but shall not, of itself, constitute Unacceptable Professional Conduct.⁵

¹ The overarching objective of the General Osteopathic Council in exercising its functions is the protection of the public (Section 1(3A) of the Osteopaths Act 1993, inserted by section 5(2) of, and paragraph 3 of the Schedule to, the Health and Social Care (Safety and Quality) Act 2015).

² Section 20(6)(a) of the Osteopaths Act 1993.

³ Section 20(9)(c) of the Osteopaths Act 1993. See also the GOsC's Investigating Committee Decision-making Guidance, August 2018.

⁴ Section 20(1)(a) and (2).

⁵ Section 19(4).

9. The threshold for whether or not a complaint or allegation is capable of amounting to Unacceptable Professional Conduct was set out by the High Court in the case of *Spencer v the General Osteopathic Council*:¹

Is the allegation worthy of the moral opprobrium and the publicity which flow from a finding of unacceptable professional conduct?

10. Applying this threshold, matters that are not usually capable of amounting to Unacceptable Professional Conduct, and that should therefore not generally be referred to the Professional Conduct Committee, include:

<p>a. Complaints about note-taking and record-keeping alone</p>	<p>In the absence of:</p> <ul style="list-style-type: none"> i. 'incompetence or negligence of a high degree'; or ii. evidence of a failure to comply with relevant information governance legislation such as the Data Protection Act 1998 (and any subsequent or amending legislation)
<p>b. Complaints that do not fall within the statutory grounds of section 20 of the Osteopaths Act 1993</p>	
<p>c. Vexatious complaints, including where the complainant:</p> <ul style="list-style-type: none"> i. repeatedly fails to identify the precise issues that he or she wishes to complain about; ii. frequently changes the substance of the complaint or continually seeks to raise new issues; or iii. appears to have brought the complaint solely for the purpose of causing annoyance or disruption to the registrant 	
<p>d. Complaints that have been made anonymously and cannot be otherwise verified</p>	
<p>e. Complaints in which the complainant refuses to participate and provide evidence and in which the allegation cannot otherwise be verified or proved</p>	

¹ [2013] 1 WLR 1307, [2012] EWHC 3147 (Admin), at paragraphs 25 and 28 of the judgment

<p>f. Complaints that relate to disputes between registrants and patients about fees or the costs of treatment</p>	<p>Provided that there is no allegation of dishonesty or intent to deceive</p>
<p>g. Complaints that:</p> <ul style="list-style-type: none"> i. seek to reopen matters which have already been the subject of an employment tribunal process or civil proceedings; ii. seek to pre-empt or influence the outcome of other regulatory or civil proceedings; or iii. lie more properly within the jurisdiction of another regulator (eg the Advertising Standards Authority) and should have been made to that regulator 	
<p>h. Complaints that amount to a difference of professional opinion</p>	<p>Provided that the opinion is:</p> <ul style="list-style-type: none"> i. accepted as proper and responsible by a responsible body of osteopaths who are skilled in that particular area of practice and acting responsibly; and ii. reasonably held and capable of withstanding logical analysis
<p>i. Complaints that relate to employment disputes</p>	
<p>j. Complaints that relate to contractual disputes, including arrangements for lease of premises and facilities</p>	
<p>k. Complaints that relate to business disputes, including:</p> <ul style="list-style-type: none"> i. passing off/similar sounding web domain names or trading names; ii. 'patient poaching'; and iii. matters arising from the break-up of a principal/associate relationship 	<p>Provided that there is no allegation of a breach of patient confidentiality or data protection issues</p>

l. Complaints about a registrant's personal life (including matters arising out of divorce proceedings)	Unless the complaint relates to abusive behaviour or violence, or behaviour that brings the profession into disrepute
m. Complaints that have no public protection implications but are made simply on the basis that the complainant is aware that the other party to a dispute is a registrant (eg boundary disputes between neighbours)	
n. The following motoring offences: i. parking and penalty charge notice contraventions; and ii. fixed penalty (and conditional offer fixed penalty) motoring offences	Provided that drugs or alcohol are not involved and there are no potential health issues in relation to the registrant
o. Penalty fares imposed under a public transport penalty fare scheme	

Version history

Document title	Document author	Version	Date	Changes made
Threshold Criteria for Unacceptable Professional Conduct	Regulation Department	1	February 2015	
Threshold Criteria for Unacceptable Professional Conduct	Regulation Department	1.2	June 2021	The Investigating Committee Decision Making Guidance referenced in footnote 3 as October 2013 has been updated to the August 2018 Investigating Committee Decision Making Guidance.